
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FIREARM OWNERS AGAINST	:	
CRIME, KIM STOLFER, and	:	
JOSHUA FIRST,	:	Jury Trial Demanded
Plaintiffs	:	
	:	
v.	:	Judge Yvette Kane
	:	
CITY OF HARRISBURG,	:	
MAYOR ERIC PAPENFUSE,	:	Docket No. 1:15-cv-322-YK
and POLICE CHIEF THOMAS	:	
CARTER,	:	
Defendants		

**MOTION TO STAY DEFENDANTS’ MOTION TO DISMISS, CONSOLIDATE
OTHER PENDING MOTIONS AND FOR ENLARGEMENT OF TIME**

Plaintiffs Firearm Owners Against Crime (hereinafter “FOAC”), Kim Stolfer, and Joshua First [collectively, “Plaintiffs”], by and through their counsel, Joshua Prince, Esq., and Prince Law Offices, P.C., hereby submit their Motion to Stay Defendants’ Motion to Dismiss, Consolidate the Other Pending Motions and for Enlargement of Time. In support thereof, Plaintiffs aver the following:

Procedural History

1. On January 16, 2015, Plaintiffs and Mr. Howard Bullock filed a 29-count complaint against Defendants City of Harrisburg, Harrisburg Mayor Eric Papenfuse, and Harrisburg Police Chief Thomas Carter, alleging violations of 18 Pa.C.S.A. § 6120, Article 1, § 21 of the Pennsylvania Constitution, and the Second Amendment to the United States Constitution. A copy of the Complaint is docketed in this matter as Document 1-1.

2. The basis of the lawsuit is Defendants' current enforcement of and refusal to repeal five (5) City Ordinances that are preempted by state law.
3. In removing this case from state to federal court, Defendants only removed three of the four Plaintiffs from the state action, docket 2015-CV-354-EQ; State Plaintiff Howard Bullock was not removed and was not listed in the Notice of Removal, on the Civil Cover Sheet, or in the docket to this case. Plaintiffs incorporate their Motion to Remand to State Court and supporting brief, Documents 5 and 6, respectively, which further address this issue.
4. On February 27, 2015, Defendants filed a Motion to Dismiss, for which they filed their Brief in Support on March 6, 2015.
5. On March 9, 2015, Defendants filed their Brief in Opposition to Plaintiffs' Motion to Remand to State Court.
6. On March 12, 2015, Defendants filed their Motion to Amend/Correct their Notice of Removal and Civil Cover Sheet and supportive brief.
7. Additionally, on March 12, 2015, Defendants filed their Motion to Vacate Default and Enjoin State Court and supportive brief.
8. On March 16, 2015, Defendants filed a Motion to Strike the Motion for Entry for Default.

Staying Defendants' Motion to Dismiss

9. As the jurisdictional issues need to be resolved prior to a determination on Defendants' Motion to Dismiss, Plaintiffs request that the Motion to Dismiss be stayed, including any response thereto, until such time as the jurisdictional issues are resolved by the Court.

Consolidation of Other Pending Motions

10. Plaintiffs' currently outstanding responses are:
 - a. Plaintiffs' Brief in Opposition to Defendants' Motion to Dismiss;
 - b. Plaintiffs' Sur Reply to Plaintiffs' Motion to Remand to State Court;
 - c. Plaintiffs' Brief in Opposition to Defendants' Motion to Amend/Correct their Notice of Removal and Civil Cover Sheet;
 - d. Plaintiffs' Brief in Opposition to Defendants' Motion to Vacate Default and Enjoin State Court; and,
 - e. Plaintiffs' Brief in Opposition to Defendants' Motion to Strike the Motion for Entry of Default.
11. As stated above, Plaintiffs respectfully request that their response to Defendants' Motion to Dismiss be stayed
12. In relation to the other pending motions, due to the overlapping issues involved and for judicial efficiency, Plaintiffs respectfully request that the motions (Motion to Remand, Motion to Amend/Correct, Motion to Vacate and Enjoin, and Motion to Strike) be consolidated; whereby, Plaintiffs be permitted to submit one brief, of up to sixty (60) pages (as the local rules permit up to fifteen (15) pages per brief, without leave of court and there are four (4) motions to be consolidated), on or by Monday, April 6, 2015.
13. As the undersigned has an extremely heavy caseload and the multitude of issues raised in the pending motions require thorough and complete briefing, the undersigned contends that the requested minor extension is warranted.
14. The undersigned sought the concurrence of Attorney Joshua Autry in this Motion.

15. Attorney Autry responded that Defendants cannot concur to staying the Motion to Dismiss and cannot agree to consolidating the Motion to Vacate and Enjoin; however, they have no objection to consolidating the Motion to Amend/Correct, Motion to Remand and Motion to Strike and agreeing to an extension until April 6, 2015 for those consolidated motions.
16. Attorney Autry also advised, as Defendants' have not yet filed their brief in support of their Motion to Strike, that the brief will be filed shortly.
17. Accordingly, if the Court deems it necessary in deciding this Motion, Plaintiffs would respectfully request that a telephonic status conference be scheduled in relation to the staying of the Motion to Dismiss and the consolidation of the Motion to Vacate/Enjoin.

WHEREFORE, Plaintiffs respectfully request this Honorable Court stay the pending Motion to Dismiss, consolidate the remaining pending motions and permit Plaintiffs until Monday, April 6, 2015 to submit their brief of up to sixty pages addressing the consolidated motions.

Respectfully Submitted,



Joshua Prince, Esq.

Attorney for Plaintiffs

Pennsylvania Id. No. 306521

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